

The Odisha Gazette



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No.2162, CUTTACK, MONDAY, NOVEMBER 18, 2024/ KARTIKA 27, 1946

LAW DEPARTMENT

NOTIFICATION

The 6th August, 2024

No.11416—ILR-06/2024/L.— Whereas, The State Litigation Policy was formulated in the State during 2011 to reduce the State litigations basing on the National Litigation Policy as per recommendation of the 13th Finance Commission.

AND, Whereas, Hon'ble High Court of Orissa in order dated 3rd October, 2023 in WPC (PIL) No.28053 of 2023 have directed to file comprehensive affidavit including also the changed Litigation Policy for redressal of the grievance at the level of administration.

AND, Whereas, minimizing the litigations against / by the State and streamlining consideration of the grievances to prevent avoidable litigations keeping in view the Order dated 3rd October, 2023 passed by Hon'ble High Court in WPC (PIL) No.28053/2023 and the guidelines of the National Litigation Policy, the **State Litigation Policy, 2024, Government of Odisha** has been formulated which is annexed herewith as **ANNEXURE-1**.

By Order of the Governor
MANAS RANJAN BARIK
Principal Secretary to Government

STATE LITIGATION POLICY, 2024

GOVERNMENT OF ODISHA

STATE LITIGATION POLICY, 2024

GOVERNMENT OF ODISHA

Whereas, in the National Consultation for strengthening Judiciary towards reducing the pending litigations and also preventing inflow of unnecessary litigations in future," held on 24th and 25th October, 2009, every State Government have been urged upon to evolve Litigation Policy similar in the line of the National Litigation Policy launched by the Government of India in the Ministry of Law and Justice.

And whereas, the 13th Finance Commission has made it conditional for every State to have a State Litigation Policy to put in place.

And whereas, the State Government as a responsive litigant keeping in view the socio-economic conditions of people, the geographical situation of the State, the National Litigation Policy and the nature of the litigation etc., have formulated the State Litigation Policy (Odisha) vide Law Department Notification No. 5259-ILR-23/11/L., dated the 30th May,2011.

And, whereas, vide order dated 3rd October, 2023 passed in WPC (PIL) No. 28053 of 2023 the Hon'ble High Court of Orissa have directed the Government to file comprehensive affidavit including also the changed Litigation Policy, which the State may consider to be appropriate for redressal of grievance of dispensing Justice at the level of administration.

Now therefore, being a responsive litigant and with the avowed objective of providing better opportunity to the civil citizens and government servants to settle their grievances, the State Government, in supersession of the earlier Litigation Policies, have formulated **the State Litigation Policy, 2024** as follows

INTRODUCTION.-

The litigations by and against the Government are to be categorized as under for addressing the issue for their unnecessary continuance as a matter of course.

- (1) Cases pending in different Courts & Tribunals; and
- (2) Cases to come up in future in different Courts & Tribunals

Majority of the litigations involving the State arise due to the inaction or tardiness in taking action rather than against the decisions of the Government. If actions are, therefore, taken within a reasonable time, most of the pending litigations can be disposed of and future litigations can be confined to grievances against decisions. Each department and the offices of the department shall prepare a list of litigations against inaction and take

early steps for decisions. With this, most of the pending litigations can be brought down. So far as litigations against the decisions, they are either challenged being unjust or improper or contrary to law or for their non-implementation. If the decisions taken are implemented within a reasonable time, another set of litigations can also be avoided. So far as correctness of decisions, a *Committee of the Administrative Department* can re-examine and on recommendation of the said Committee, the *Empowered Committee* under the Chairmanship of the Chief Secretary will take a final view for Government decision. As regards pending litigations in different Courts or Tribunals, citizens need to be given the liberty to come forward for just settlement and decision need to be taken by giving a fresh look into it.

I. VISION OR MISSION.-

The State Government and its agencies are the main litigants in Courts and Tribunals in the State and the National Adjudicating Tribunals. The objective of the Policy made is to foster a feeling among the people that the State is a responsive litigant and reasonable in its approach in respect of grievances of citizens. This will generate confidence amongst the public that the State Government discharges its responsibilities towards protection of the rights of citizens, welfare of the public, which will ultimately pave way for good governance.

To become a responsive and responsible litigant, the persons who are at the helm of Government litigations are to--

- (i) focus their attention on the core issues involved in the grievance or litigation in order to address them in a concerted manner;
- (ii) manage and conduct the litigation in a cohesive, coordinated and time-bound manner;
- (iii) ensure that meritorious grievances or cases are pursued in a meaningful manner; and
- (iv) take steps for representation by legal professionals competent in their skills and sensitive to the fact that the Government is not an ordinary litigant, shunning the attitude of being result oriented.

In order to create a feeling that State Government is a responsive litigant, persons connected with State litigations are to ensure that,-

- (i) the litigation has not been resorted to for the sake of litigation only;
- (ii) pleas taken in the litigation, either to establish or defend, are not false or

mechanical;

- (iii) correct facts and circumstances along with all the relevant documents are placed before the adjudicating forums, and
- (iv) suppression as well as misleading of facts before the adjudicating forums are avoided.

II. ADDRESSAL OF GRIEVANCES.-

1. The State Government have launched the “Jana Sunani Portal” (herein after termed as “Portal”), an online platform for redressal of grievances. The Portal has proved itself to be a robust platform in addressing the grievances of citizens. Further improvement in capturing the details of grievances having legal implication and their timely and qualitative disposal is an ever-continuing process.
2. Overwhelming majority of grievances, whether having legal implications or otherwise, be it of the civil citizens or government servants, are made with an expectation of some relief. It is very obvious that demands under grievances having legal implications must have the backing of a right created under any Statute or Rule or Policy for the time being in force.
3. With a view to avoid unwarranted litigation, the citizens shall be encouraged to raise their grievances having legal implications before the State Government using the Portal as the first step towards redressal of their grievances. An advisory in the form of a footnote may be displayed in the portal stating “*The citizens should get their grievance addressed by using the “Jana Sunani Portal”, the most expeditious and efficacious mechanism of grievance redressal*”.
4. In order to improve the results from the Portal and to make it more broad based by including Government Servants into the Portal for submitting their grievances, customization of Jan-Sunani Portal is necessary. In order to achieve this objective, State Government will take steps to integrate separate Page to facilitate “Registration” and “Login” by the Government Servants to submit their grievances. Steps will also be taken to prescribe timelines for timely redressal of grievances. In case of failure of redressal of grievance within the specified timeline, the Petitioners would be free to approach the appropriate Court of Law for redressal of their grievance.
5. For effective handling of such grievances, the petitioner needs to indicate the relevant subject or section of Law or Rule or Policy or any judgment that creates any right of the petitioner. This will not only be helpful in categorization of the grievances but also assist the Nodal Officer and concerned Sections in dealing with the matters for their examination and disposal.

6. Grievance or complaint of a person is to be carefully examined and all endeavour should be made to satisfy the person aggrieved by redressing his grievance or by explaining him the difficulties in redressal of his grievance as per his claim and those connected with the litigation should not leave the matter to the adjudicating forum to decide with an attitude that "*LET IT BE DECIDED BY THE COURTS*". Any such attitude coming to the notice has to be seriously viewed. It should give a feeling not only that grievance is redressed but it must be shown to have been redressed within the framework of law in a just and possible manner.
7. If, upon examination of grievance, the demand of the petitioner is found to be valid, the Disposing Authority shall pass specific orders on the following (a) Whether the demand is to be accepted and acceded to; (b) Who is the competent authority to accept and implement the demand; (c) The specific timeline to comply with the demand and the orders of the Disposing Authority shall be uploaded in the Portal.
8. If upon examination of grievance, the demand of the petitioner is found to be invalid, the Disposing Authority shall pass specific orders mentioning the followings (a) The relevant laws or rules or Policy which the petitioner has quoted in their petition (b) Why such laws or rules or Policy are not applicable in the case of the petitioner (Giving justification or reason). (c) In case of any shortcomings in the case of the petitioner, such shortcomings of the grievance petition or qualification requirements must be mentioned (*on the grounds of which the eligibility of the petitioner is found to be invalid*). This shall help in enlightening the petitioner, help him to acquire the requisite qualifications or compliances to be eligible for the right in future and desist him from resorting to unwarranted litigation.
9. There has to be clear timelines with responsibilities fixed for effective handling of grievances. Simultaneously a clear and defined flow-path has to be there within the Department (*to be prescribed by the Secretary or Principal Secretary or Additional Chief Secretary*) with fixed timelines at each stage. The first interface between the Portal and the Department should be the *Nodal Officer* of each Department for Public Grievance.
10. Basing on the nature of grievance and especially the relevant section of rule or law or policy, quoted by the petitioner, the *Nodal Officer* shall mark the grievance petition to the *Concerned Section*. This shall be done on a daily basis by the *Nodal Officer* and the period of disposal shall be counted from the said date. Before forwarding the grievance to the *Section*, the *Nodal Officer* is to see that the petitioner has quoted the

relevant subject or section of laws or rules or Policy under which the relief has been sought. In case the petitioner has failed to mention the same, this fact should be clearly mentioned in remarks column while forwarding the petition to the *Section*. The timeline for disposal of the grievance at different levels has been given in the Timeline Matrix at **Annexure**. The timeline for implementation of the decisions is also included in the **Annexure**.

11. For ensuring success of this policy, the Departments of the Government, the Heads of Department, the Heads of Offices, the Field Officers, the Law Officers of the State Government and its agencies, who are in any manner connected with the grievance or litigation, are to co-ordinate with each other individually and collectively. The *Nodal Officer* will be the co-ordinating officer who will be responsible for collection of facts, documents, and discussion amongst each other.
12. The roles of the Nodal Officers are crucial for successful implementation of the policy. Grievance of people arise generally in the matters of implementation of laws, plans and schemes in connection with the office of which he is the nodal officer. He should have sound knowledge of the departments and their working with rules or other offices, those are connected with the implementation so that a grievance can be attended to within a short time and the aggrieved person need not knock at different doors for redressal of his grievance. In spite of all endeavour to attend to the grievance, if a litigation becomes inevitable, the Nodal Officers shall remain in charge of the litigations for taking steps for their early disposal.
13. All Public servants should develop the attitude of being accountable where grievance is made by individual in respect of their actions or inactions or abuse of position in any matter. Whenever a grievance or representation or notice is received, it should first be initiated from the Nodal Officer for further action. The mind set should be that if a person is legally entitled to a claim, he should not be unnecessarily driven to the Court.
14. There shall be a Committee of Administrative Department in each department comprising of the Additional Chief Secretary or Principal Secretary or Commissioner-cum-Secretary as its chairman and two senior officers of the department nominated by the Additional Chief Secretary or Principal Secretary or Commissioner-cum-Secretary as members.
15. The Empowered Committee as referred to in 2nd Para under the heading “Introduction” shall be constituted which shall have same powers and functions as outlined in National

Litigation Policy. The Advocate General of the State shall be one of the Members of the Empowered Committee. The other members of the Committee not exceeding five in number shall be nominated by the Law Department with approval of the Chief Secretary. One of the Addl. Secretaries of the Law Department shall be the Member Secretary of the Committee.

There shall be a District Empowered Committee for each of the Revenue District. The said Committee shall comprise of the Collector of the District as the Chairman, the Government Pleader and the Public Prosecutor as the Members and the ADM as the Member-Convener. The Collector of the District shall nominate two other connected officials of the district as co-opted members of the Committee. The Committee shall submit monthly reports to the State Empowered Committee which shall, in its turn submit comprehensive reports to the Government in Law Department. The Nodal Officers and the Heads of Offices shall ensure that all relevant data are sent to the Empowered Committees in time.

Each Department is required to prepare a list of litigations pending in different Courts and Tribunals with short indication of the subject. It should be reviewed by the State Empowered Committee. Where a grievance is continuing for a long period, the Committee shall suggest ways and means as to how the grievance can be redressed.

Where for any reason it is not possible to redress the grievance, the lawyer representing the State in the Court and Tribunal shall be advised to take step to expedite the disposal of the case. In appropriate cases the State Empowered Committee may exercise its discretion and attempt for settlement of the cases by compromise, while safeguarding the interest of the State and looking at its impact, without treating the same as a precedent.

III. GOVERNMENT REPRESENTATION.-

16. Government Panels should comprise of lawyers of high competence and efficiency. Recommendation should be made after careful scrutiny of the credential, legal knowledge and integrity of the person to be included in the Government Panel.
17. Selection shall be made taking into account the skills and capabilities of lawyers who are desirous to be included in the Government Panels and with specific emphasis on areas of core competence, domain expertise and areas of specialization.
18. The Government advocates must be well equipped and provided with adequate

infrastructure. They need to be provided with modern technology such as computers, internet connection.

19. Training programmes, seminars, workshops and refresher courses for Government advocates shall be organized. There shall be regular legal education for Government lawyers with particular emphasis on identifying and improving areas of specialization. The Law Department, in consultation with experts and all concerned shall prepare special courses for training of Government lawyers. Most importantly, there shall be an effort to cultivate and instill values required for effective Government representation. All Departments shall extend necessary cooperation in this regard.
20. Conferences of Government advocates shall be organized so that matters of common difficulties can be discussed and resolved.
21. The Government Advocates must play a meaningful role in Government litigations instead of only entering appearances in Courts. To provide the Government Advocates with necessary motivation, their extraordinary works shall be rewarded.
22. It shall be the responsibility of all the Law Officers to train their fellow panel lawyers and to explain them what is expected of the mind in charge of their duties. The work done by the Government Advocates shall be monitored and evaluated by the Government in Law Department.
23. Panels are required to be drawn up from the willing, energetic and competent lawyers with special skills in drafting and pleadings on behalf of Government.
24. Nodal Officers will be responsible for active case management. This will involve constant monitoring of cases particularly to examine whether cases have gone "off track" or have been unnecessarily delayed.
25. Incomplete briefs are frequently given to Government Counsels, which shall strictly be avoided.
26. There should be equitable distribution of briefs as far as possible and practicable so that there will be broad based representation of Government. The Advocate General or Government Pleaders or Public Prosecutors shall look into it and take special care as deemed proper. The Government in Law Department shall see that similar nature of cases are being handed over to a group of Advocates-on-Record comprising of such numbers as desirable taking into consideration of number of cases.
27. Government lawyers are expected to discharge their obligations with a sense of

responsibility towards the court as well as to the Government. If concessions are made on issues of factor law and it is found that such concessions were not justified, the matter shall be reported to the Empowered Committee and remedial or punitive actions shall necessarily follow.

28. While Government cannot pay fees which private litigants are in a position to pay, the fees payable to Government Lawyers will be suitably revised from time to time to make it duly remunerative. It should be ensured that the fees stipulated as per the Schedule of Fees should be paid within a reasonable time. Deficiencies in release of payments must be addressed as early as possible.

IV. ADJOURNMENTS.-

29. Unnecessary and frequent adjournments by the Government Advocates should be discouraged and infractions shall be dealt with seriously.

30. In fresh litigations, where the Government is a “Defendant” or a “Respondent”, a reasonable adjournment may be applied for obtaining instructions, in the first instance. However, it must be ensured that such instructions are made available and communicated before the next date of hearing. If instructions are not forthcoming, the matter must be reported to the Nodal Officer and if necessary, to the Head of the Department.

31. One of the functions of the Nodal Officers shall be to co-ordinate the conduct of litigation. It shall not only be their responsibility to monitor the progress of litigation from time to time particularly in identifying the cases in which repeated adjournments are taken, but also to report cases of repeated and unjustified adjournments to the Head of the Department and it shall be open to him to call for reasons for the adjournments. Serious note shall be taken of cases of negligence or default and the matter shall be dealt with appropriately by referring such cases to the Empowered Committee. If the advocates are at fault, action against them may also entail serious consequences such as removal of their names from Government Panels.

32. Cases in which costs are awarded against the Government as a condition for grant of adjournment shall be viewed very seriously. In all such cases, the Head of Department must give a report to the Empowered Committee of the reasons why such costs were awarded. The names of the persons responsible for the default entailing the imposition of the costs will be identified. Suitable action must be taken against them.

V. PLEADINGS OR COUNTERS.-

33. Suits or other proceedings initiated by or on behalf of Government have to be drafted with precision and clarity by highlighting the grounds on which the case of the State is based. There should be no repetition either in narration of facts or in the grounds.

34. Appeals will be drafted with particular attention to the synopsis and list of dates which shall carefully crystallize the facts in dispute and the issues involved with reference to legal position. Slipshod and loose drafting shall be taken serious note of. Defaulting advocates in this regard may be removed from the panels. Pleas or grounds which do not touch the substratum of the list be avoided.

35. Care must be taken to include all necessary and relevant documents in there cord. If it is found that any such documents is not annexed and this entails an adjournment or if the court adversely comments on this, the matter will be enquired into by the Nodal Officer and reported to the Head of Department for suitable action.

36. Untidy, haphazard, incomplete, erroneous Government documentations in Courts shall be avoided.

37. Counter Affidavits in important cases shall be filed in time and with proper scrutiny.

VI. FILING OF APPEALS.-

38. Appeals may not be filed against *ex parte* and interim orders except in extreme cases where situation so demands. Attempt must first be to have the order vacated. The appeal may be filed against an order only if the order is not vacated and the continuation of such order causes serious prejudice and where time to be spent for vacation would frustrate the object and then if such filing is permissible in Law.

39. Given that Tribunalisation is meant to remove the loads from Courts, challenge to orders of Tribunals should be on careful scrutiny and not as a matter of routine.

40. In service matters, filing of appeal will be avoided in cases where:-

- (i) the matter pertains to an individual grievance without any major repercussion; and
- (ii) the matter pertains to a case of pension or retirement benefits without involving any principle and without setting any precedent or financial implications except where a long-standing settled position is going to be unsettled likely to give rise to huge burden leading to complication.

41. Further, proceedings will not be filed in service matters merely because the order of the Administrative Tribunal affects a number of employees. Appeals will not be filed to espouse the cause of one section of employees against another.

42. Proceedings will be filed challenging orders of Administrative Tribunals only if-

- (i) there is a clear error on record in recording the finding against the Government; or
- (ii) the judgement of the Tribunal is contrary to a service rule or its interpretation by a High Court or the Supreme Court; or
- (iii) the judgement would affect the working of the administration in terms moral of the service; or
- (iv) if the judgement will have recurring implications upon other cadres or if the judgement involves huge financial claims.

43. Appeals will not be filed in the Supreme Court unless,-

- (i) the case involves a question of law;
- (ii) if it is a question of fact, the conclusion of the fact is such that opinion cannot rest at that conclusion;
- (iii) where public finances are adversely affected;
- (iv) where there is substantial interference with public justice;
- (v) where there is a question of law arising under the Constitution;
- (vi) where the High Court has exceeded its jurisdiction;
- (vii) whereas, statutory provision has been struck down as ultravires; and
- (viii) where the interpretation is plainly erroneous.

44. In each case, there will be a proper certification of the need to file an appeal. Such certification will contain brief and cogent reasons in support. At the same time, reasons will also be recorded as to why it was not considered fit or proper to file an appeal.

VII. LIMITATION: DELAYED APPEALS.-

45. It is recognized that good cases are being lost because of appeals are being filed much beyond the period of limitation and without any proper explanation for the delay or without a proper application for condonation of delay. It is recognized that such delays are not always *bonafide* particularly in cases where high stakes of revenue are involved.

46. Each Head of Department will be required to call for details of cases filed on behalf of the Department and to maintain a record of cases which have been dismissed on the ground of delay. The Nodal Officer must submit a report in every individual case to the

Head of Department explaining all the reasons for such delay and identifying the persons or causes responsible. Every such case will be investigated and if it is found that the delay was not *bonafide*, appropriate action must be taken. Action will be such that it operates as a deterrent for unsatisfactory work and malpractices in the conduct of Government litigation. For this purpose, obtaining of the data and fixing of responsibility will play a vital role. Data must be obtained on a quarterly basis.

47. Applications for condonation of delay are presently drafted in routine manner without application of mind. This practice must be shunned. It is the responsibility of the drafting counsel to carefully draft an application for condonation of delay, identifying the areas of delay and the causes with particularity. The Administrative Department must provide detail data for the said drafting.
48. Every attempt must be made to reduce delays in filing appeals or applications. It shall be responsibility of each Head of Department to work out an appropriate system for elimination of delays and ensure its implementation.
49. The question of limitation and delay must be approached on the premise that every Court is strict and rigid with regard to condonation of delay and accordingly there have to be the ground work and preparation.
50. The Legal Cell of all the Departments of Government shall be activated, and it will be ensured that the Cell is fully dedicated to the Management of the litigations and if there would be any shortage of staff, the same shall be sorted out immediately by processing files for that as per practice. Any notice relating to any litigation received either from the citizen or Hon'ble Court or Tribunals or any other quasi-judicial authority will be marked to the Legal Cell immediately who in their turn will co-ordinate with the concerned section and shall consult with the Law Department except in cases which are simple and clear and where no point of law is involved. This marking and co-ordination exercise should possibly be completed within 10days. The Law Department on receipt of any such reference will immediately act and examine the merit or otherwise of the case in going ahead with an Appeal or Writ or Special Leave Petition (SLP).The decision of the Government in Law Department will be communicated to the Administrative Department preferably within 15 days. In case any delay at some level is noticed, such delay shall have to be explained for consideration of the authority. If at any point any deliberate action in causing delay in order to extend undue advantage to the adversary of the case is found out, the authority will take appropriate action against the erring officer. The interest of State shall in that event be of paramount

consideration.

51. Strengthening of Legal Cell.-

Steps shall be taken to strengthen the Legal Cells in each Department. For a Department with large number of Case pendency rate, an Officer in the rank of Additional Secretary or Joint Secretary shall be appointed as the Nodal Officer whereas in Departments where the pendency of Cases is average, an Officer in the rank of Joint Secretary or Deputy Secretary shall be appointed as the Nodal Officer. Such Legal Cell shall consist of ASOs, SOs, DEOs and an Assistant Director Law or Law Officer to provide legal expertise. There shall be use of Artificial Intelligence for identification of Contempt Cases, pending cases for disposal of representation aligning with LMS and iLMS. The Secretary in each Department shall review the pendency of the cases in the Legal Cell. The assured tenure of the Officers in the Legal Cell shall be 5 years unless superseded by an Office Order.

52. Writ Appeals.-

- (i) Upon disposal of a writ petition, the office of the Advocate General (AG) shall issue a letter to the concerned Deptt. within a maximum period of three days to intimate the same.
- (ii) Upon receipt of the letter from the office of the AG, the concerned Deptt. shall download the order from the website of the Hon'ble High Court or LMS and shall also apply for a certified copy of the order. If such order is not uploaded, the officer concerned should immediately contact the protocol officer of the AG office telephonically or through "Whatsapp". The protocol officer of the AG office shall follow up with the Registry of the High Court for uploading of such order. Also, the officer concerned shall also take steps for obtaining a certified copy of the order.
- (iii) The statutory limit for filing Writ Appeal against the orders passed by the Single Judge is 30 days from the date of the order. Efforts should be made by the Department concerned to file the same within the said period of 30 days and in no case, a writ appeal should be filed after a period of 30 days from the date of the order.
- (iv) Within a maximum period of four days, the Department concerned shall take a decision to file or not to file a Writ Appeal and if it intends to file a writ appeal, then it shall forward the proposal file to the Law Department for its views. The Department concerned should consult the conducting Law officer for his advice before taking such decision. In the event, the approval of the Law Department is not obtained

within a period of 10 days for any reasons, then Department concerned shall file the writ appeal and then obtain ex-post facto approval from the Law Department with regard to filling of writ appeal.

- (v) In cases where opinion has been sought from the Law Department for filling of writ appeal, such proposals shall be disposed by the Law Deptt. within a period of ten days.
- (vi) Upon receipt of contempt petition, the office of the AG shall issue a letter seeking compliance of the order passed and the department concerned shall file a compliance affidavit within 7 days in case no Writ Appeal is pending against such orders. It may be noted that until and unless an order sought to be complied has been stayed by a higher forum, the order ought to be complied. It can be mentioned in the orders passed in compliance of the directions of the Court that the same shall be subject to the result of the pending writ Appeal or Special Leave Petition.
- (vii) In no case, Writ Appeal proposals shall be initiated after receipt of a contempt petition.

53. Special Leave Petitions (SLPs).-

- (i) After passing of the final judgment by the High Court, the concerned Administrative Deptt., shall process the file within a period of 21 days from the date of the judgment seeking concurrence of the Law Department.
- (ii) The Law Department in turn shall furnish its opinion within a period of 21 days from the date of receipt of the reference and in the event of the Law Department concurring with the proposal for filling Special Leave Petition, it shall appoint an Advocate-on-Record from the panel.
- (iii) Thereafter, the concerned Administrative Department shall promptly interact with the Advocate- on- Record engaged in the case and furnish all necessary documents, records, information, etc. so as to ensure that the Special Leave Petition is filed within the prescribed period.
- (iv) All Administrative Departments shall be authorized to pay advance amount to the Advocate- on- Record in order to meet the expenses of filing, court fees, etc. It shall be the responsibility of the Secretaries of all Departments to fix responsibility for non-adherence of the timeline indicated above by the dealing staff of their respective Departments.
- (v) In case the learned Advocate General has tendered an opinion to the

Administrative Department to challenge the order of the High Court, the Administrative Department shall take immediate steps to refer the matter to the Law Department which shall engage an AOR after obtaining Government order within 21 days.

- (vi) While all endeavour shall be made by the Administrative Departments to file SLPs in time, yet in exceptional cases the SLP may be filed even after the prescribed period only if the Empowered Committee or a Sub-Committee headed by the Principal Secretary, Law, Legal Remembrancer and Special Secretary of the concerned Administrative Department accords approval thereto.
- (vii) All Administrative Departments shall submit the files to Law Department in OSWAS as well as physical. The file shall contain a check list of relevant points to be formulated by the Law Department strictly on the basis of the provisions of the State Litigation Policy.
- (viii) The Government should arrange training programme to sensitize Nodal Officers and staffs at all level about the Litigation Policy and their roles and responsibilities in case management.
- (ix) The Principal Secretary, Law shall take meeting of the Advocates-on-Record at New Delhi once in every quarter to review the status of pending cases and also obtain the feedback from them regarding better management of the cases. The learned Advocate General shall also be requested to attend such meeting.

54. Stimulating the management of cases of the State before different courts.

- (i) In urgent cases, the Resident Commissioner, New Delhi shall be authorized to file affidavits before the Supreme Court.
- (ii) The Hon'ble High Court shall be requested to spare an officer in the cadre of District Judge to be stationed at New Delhi who will look after the litigation management of the State in Supreme Court and other Courts or Tribunals at New Delhi.
- (iii) Since, the State does not have a Standing Counsel in the Supreme Court at present, all Advocates-on-Record in the State panel shall be authorized to receive notice or petitions from the registry and or Counsel for other parties. The office of the Resident Commissioner or Legal Cell at Delhi shall also be authorized to receive notices or petitions from parties or their Counsel. In such an event, it shall be the duty of the concerned AOR or Resident Commissioner or Legal Cell at Delhi to forthwith transmit the notice or petition to the concerned Department.

- (iv) All Departments having more than 500 pending cases in the High Court shall be authorized to engage the Standing Counsel and four Additional Standing Counsels exclusively to deal with the said cases particularly to ensure pleadings are completed on time. Such engagements shall be in consultation with the learned Advocate General, Odisha.
- 55. While sending proposals for engagement of Sr. Advocate before the Hon'ble Supreme Court of India, the Department should give a brief note on the importance of the case justifying engagement of Sr. Advocates and to suggest at least two names of Sr. Advocates with fees structure sufficient ahead of the listing of the case.

VIII. ALTERNATIVE DISPUTE RESOLUTION OR ARBITRATION.-

- 56. The Government Departments or PSUs should resort to Arbitration particularly in matters of contracts etc. containing arbitration clause. Careful drafting of commercial contracts, including arbitration agreements must be given utmost priority.
- 57. The resort to arbitration as an alternative dispute resolution mechanism must be encouraged at every level, but this entails the responsibility that such arbitration will be cost effective, efficacious, expeditious and conducted with high rectitude.
- 58. The Head of Department shall call for the data of pending arbitrations. Copies of the (record of proceedings) must be obtained to find out why arbitrations are delayed and ascertain who is responsible for adjournments. It shall be the responsibility of the Head of the Department to call for regular review meetings to assess the status of pending arbitration cases.
- 59. The Arbitration agreement must correctly and clearly reflect the intention of the parties, particularly if certain items are required to be left to the decision of experts such as engineers, those are not meant to be referred to arbitration. Arbitration agreements must reflect a well-defined procedure for appointment of arbitrators. In technical matters preference for reference may be in favour of trained technical persons.
- 60. The arbitrator must be chosen solely on the basis of knowledge, skill and integrity and not for extraneous reasons. It must be ascertained whether the arbitrator will be in a position to devote time for expeditious disposal of the reference.
- 61. It is found that if an arbitration award goes against Government, it is almost invariably challenged by way of objections filed in the arbitration. Very often these objections

lack merit and the grounds do not fall within the purview of the scope of challenge before the courts. Routine challenge to arbitration awards must be discouraged. A clear formulation of the reasons to challenge Awards must precede the decision to file proceedings to challenge the Awards.

62. It must be kept in mind that such proceedings are time bound and resort to it is for early resolution. Similarly challenges to award in such cases must be very timely decided.

IX. SPECIALISED LITIGATION.-

63. Proceedings which may attract judicial review including in the matter of award of contracts or tenders:

Such matters should be defended keeping in mind constitutional imperatives and good governance. Where a proceeding is founded on an allegation of the breach of natural justice and if there is substance in the allegations, the case shall not be proceeded with and the order may be set aside to provide for a proper hearing in the matter. Cases where projects may be held up, have to be defended vigorously keeping in mind public interest. Those must be dealt with and disposed of as expeditiously as possible.

64. Cases involving vires of Statutes or Rules and Regulations:

In all such cases, proper affidavits should be filed explaining the rational between the Statute, Rules or Regulation and also making appropriate averments with regard to legislative competence.

65. Public Interest Litigations (PILs):

Public Interest Litigations must be approached in a balanced and careful manner. PILs challenging public contracts must be seriously defended. If interim orders are passed stopping such projects then it must be urged before Courts for appropriate conditions to be insisted upon the Petitioners to pay compensation if the PIL is ultimately rejected.

66. PSU Litigations

Litigation between Public Sector Undertakings inter se being matter of great concern, every effort must be made to prevent such litigation. Before initiating such litigation, the matter must be placed before the highest authority in the public sector such as the Chief Managing Director (CMD) or Managing Director (MD) as the case may be. It will be his responsibility and endeavor to see with utmost anxiety that the litigation is avoided.

X. REVIEW OF PENDING CASES.-

All pending cases involving Government/PSUs shall be periodically reviewed by the respective Heads of Department and the Nodal officers. All the departments and PSUs shall draw statistics of all pending matters and send the same to the office of the Advocate General, which shall review all pending cases and filter frivolous and vexatious matters from the meritorious ones.

XI. CUSTOMIZATION OF JAN-SUNANI PORTAL.-

In order to improve the results from the Portal and to make it more broad-based by including Government for submitting their grievances, customization of Jan-Sunani Portal is necessary. The following suggestions are made:

- (i) provide separate Page to facilitate Registration and Login by Government Servants to submit their grievances.
- (ii) mapping of Branches or Sections for each department needs to be incorporated to avoid delays at the level of Nodal Officer in marking the grievances to the concerned branches. The system as it operates in OSWAS where the Daks are marked directly by the Secretary of any officer needs to be replicated in the Jan-Sunani Portal.
- (iii) Officer-wise pendency viewing panel as is provided in OSWAS. This will enable the senior functionaries to identify delay spots in the handling of grievances.
- (iv) provide box or space or drop down for submitting the relevant Law or Rule or Policy or Statute under which the grievance has been made for redressal. In case the grievance is generic one, in the drop down provision of “Others” be made with box for comments.
- (v) Considering the fact that Government time is precious and it should not be wasted by repeated submission, the Jana Sunani Portal shall develop the capability to segregate repeat grievances by the same petitioner which have been handled and disposed of by the Government. In order to check any impersonation, the petitioner be made to submit an undertaking in the portal stating: **UNDERTAKING** by the Petitioner: *“The facts submitted are true, based on facts, there is no misrepresentation of facts. It is also submitted that the grievance submitted is not on the self-same grounds which has been heard and disposed of by the Government earlier.”*

XII. PENALTIES.-

67. In case of any failure of adherence to the prescribed timelines, the Nodal Officer shall bring the delay, forthwith to the Head of Office. The Head of Office shall cause a

summary inquiry into the matter and if, after such summary inquiry it is established that the delay was not attributable to any justifiable reasons, may order for any administrative action as is deemed fit.

Policy simply put in place only cannot achieve the desired goal unless a well-designed working plan for its effective implementation starts moving forward. Separate specialized machinery if found further necessary will be brought into existence to accelerate this policy vehicle to minimize litigation and to secure the objective.

.....

ANNEXURE

TIMELINE FOR GRIEVANCE

LEVEL-1- SUB-DIVISION LEVEL

- (a) Grievance to be disposed within 30 days
- (b) If demand or prayer made is inadmissible, an auto generated SMS to be sent on petitioner's mobile number along with an email citing the reasons for regretting the prayer.
- (c) Regretted or rejected grievances applications shall be closed and shall not be escalated to the next higher level.
- (d) Either the head of office or an officer who is second in command in the respective Sub-Divisional Office shall be designated as the Grievance Officer of the office
- (e) Cell shall have one clerical level officer who shall constitute the grievance cell secretariat
- (f) All staff must be well versed in Jan Sunani Portal operations.

LEVEL-2- DISTRICT LEVEL

- (a) Auto escalation of grievance to Collector if same un-attended for 30 days at Sub-Division level. Collectors grievance cell shall examine the prayer, and if admissible,

address the issue.

- (b) Simultaneously, a system generated letter will be generated calling for explanation of the sub-ordinate officer asking to show cause the reasons for failing to address the grievance within the prescribed time frame.
- (c) If the grievance inadmissible, the same will be rejected with cogent and specific reasons citing relevant rules or justification and communicated through system generated email with an SMS about the rejection.
- (d) Regretted or rejected grievances applications shall be closed and shall not be escalated to the next higher level.
- (e) Dedicated grievance cell in the office of Collector - officially notified by an Office Order issued by the concerned Collector.
- (f) Officer not below the rank of Deputy Secretary shall be designated as the District Grievance Officer – In addition to his or her substantive post.
- (g) Cell shall have at least two to three clerical level officer who shall function as the secretariat of grievance cell.
- (h) Public grievances shall be received on every Monday.

LEVEL-3- STATE LEVEL

- (a) Unattended or unresolved for a period beyond 4 weeks at the level of Collector, the same shall get auto escalated to the level of the Secretary of the Concerned Department.
- (b) Grievance Cell of the Department shall ensure disposal within this period. Redress grievance if admissible within 30 days.
- (c) System generated letter will be generated calling for explanation of the sub-ordinate officer asking to show cause the reasons for failing to address the grievance within the prescribed time frame
- (d) If the grievance inadmissible, the same will be rejected with cogent and specific reasons citing relevant rules or justification and communicated through system generated email with an SMS about the rejection.
- (e) Regretted or rejected grievances applications shall be closed and shall not be escalated to the next higher level.

- (f) dedicated grievance cell in each Department - shall be officially notified by an Office Order issued by the Secretary of the Department
- (g) An officer not below the rank of Joint Secretary, who is, in particular but not restricted to, well-versed in-service matters, shall be designated as the "Department Nodal Grievance Officer" (D-NGO) of the office
- (h) Adequate support staff to be decided by the Secretary concerned to ensure smooth disposal
- (i) Cell shall also deal with the public grievances received on every Monday